

Minneapolis Planning Department

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MEMORANDUM

DATE: June 19, 2003

TO: Council Member Gary Schiff, Chair of the Zoning and Planning
Committee of the City Council

FROM: J. Michael Orange, Principal Planner (612-673-2347,
michael.orange@ci.minneapolis.mn.us)

SUBJECT: Appeal of the Planning Commission decision regarding the Northern Auto
Parts scrap yard located at 814, 816, 824, 902 & 906 5th Street North
(BZZ-1107)

Mr. Kit Richardson and Mr. James R. Grabek, Chair of North Loop Association, have filed an appeal to the decision of the City Planning Commission approving the application of Northern Auto Parts for an expansion or alteration of a nonconforming use or structure to expand the operations in the scrap yard to include car crushing and car stripping. The Commission's vote was six to two in favor of approval.

This memo includes the following information:

- Provides a summary of the project
 - Includes the new recommendations from the staff of the Environmental Management division of the Inspections Department.
 - Addresses the contentions filed with the appeal, and the Planning Department's responses.
 - Provides options for the Council to consider.
- A. **Summary of the Project (refer to staff report pp. 1-3 in Exhibit B for more detail)**

<p>If you need more information or have special needs, please call the Minneapolis Planning Department at 612-673-2597.</p>
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Northern Auto Parts recycles automobile parts in its facilities at 643 5th St. N. (hereinafter called the “shop”), and at the scrap storage yard a block north (hereinafter called the “yard”). Essentially, the company buys junked cars and transports them by truck to the storage yard, the subject site. When ready, the company moves the cars by forklift the 1 1/2 blocks down 5th St. N. to the shop where they are stripped for saleable parts. The business sells the used parts out of their shop. The remaining hulks are moved by forklift back to the yard until they can be transported by truck to one of the area metal recycling facilities.

The company also buys low-value “junkers” for as little \$5 each primarily from the City’s impound lot for some parts value but primarily for scrap value alone. They transport these to the yard and for the past 12 years, according to the applicant, they have brought in mobile car crushers to the yard on a periodic basis to compact the car hulks and junkers prior to shipping them to metal shredder and recycling facilities.

According to the Zoning Code’s definitions, both the shop and the yard are classified as “scrap/salvage yards, metal milling facilities”¹ and not as “recycling facilities.” The site is zoned I2, Medium Industrial District. This is consistent with the prior Zoning Code designation, M2-3, Limited Manufacturing District. A scrap/salvage yard is first allowed as a conditional use in the I3, General Industrial District. The Zoning Administrator has determined that, because the company did not obtain proper approvals, the company’s use of mobile crushers is an unauthorized use of the property.

The applicant proposes to increase the amount of salvage and recycling significantly by installing up to two mobile car crushers in the yard. The applicant has indicated that this will make the space more efficient and increase the value of the materials shipped off the site. The applicant stated the crushers would enable the company to process an additional 50-75 cars per day, most of which will be junkers. The permit limits truck trips to and from the shop and yard to an average of 29 per month, 18 more than currently. The crushers will sit on two concrete pads in the yard. The project also includes the construction of a three-sided roofed shed within which workers will drain the fluids of cars prior to crushing.

The I2 District does not restrict operating hours (except for hours that a business can be open to the public²). The permit will restrict operating hours for the yard to the following:

- Monday through Friday: 8:00 a.m. to 4:00 p.m.

¹ 520.160: Scrap/salvage yard, metal milling facility. A use where scrap or salvage materials are shredded, milled, crushed, ground, bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, bottles, plastics and aluminum cans. A scrap/salvage yard, metal milling facility may include automobile wrecking or dismantling.

² Section 550.90.

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- Saturday: 8:00 a.m. to 1:00 p.m.

Currently, the yard is littered with debris, and the fence on 5th St. N. is in dire need of repair or replacement. The applicant intends to clean the site, replace the fences on all open sides of the yard, and improve the landscaping.

The applicant expects the project to result in five new jobs.

**B. Recommendations from the staff of the Environmental Management Office
of the Inspections Department**

Mr. Roger Van Tassel, and inspector with the Environmental Management Office of the Inspections Department, has inspected the site over the past several years. Based on the result of these inspections and concerns regarding environmental protection, he submitted an extensive list of recommendations for additional conditions should the Council decide to allow the proposed expansion (refer to Exhibit F).

C. Responses to Contentions

The following includes a summary of the primary points made by the appellants (refer to Exhibit A) and a staff response to those comments (refer also to Exhibit B, the Planning Department staff report on the project, and Exhibit E, which includes additional information from the applicant, Mr. Howard Chanen):

1. **Contention:** The appellants contend that the following four plans call for residential, commercial, and retail uses in the area of the site and that the project is inconsistent with these plans:
 - *Minneapolis Plan*
 - Draft “Downtown East/North Loop Master Plan”
 - Hennepin County’s “Downtown Minneapolis Multi-Modal Station Area Plan”
 - “Warehouse Riverfront District Development Framework”

Response:

- ***Minneapolis Plan:*** The staff report (Exhibit B) includes the analysis regarding the consistency of the project with the Minneapolis Plan. Staff concluded that, like most projects, the project is consistent with some policies of the plan and inconsistent with others. Staff concluded the project, as amended by the added conditions of approval, was “not inconsistent with the Comprehensive Plan.”

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- **Draft “Downtown East/North Loop Master Plan:”** The staff report included the recommended land use map from this draft report (Attachment 6 in Exhibit C) and staff addressed the project’s consistency with this plan at the Planning Commission hearing (refer to the meeting minutes in Exhibit C). Since the plan is in the final draft stage and has yet to be adopted by the City Council, it has no official standing yet. The study area of the plan extended to within a block south of the site but the land use map included the site. The designation in the vicinity of the site is for medium density, mixed residential and commercial reuse with new buildings to be 5 to 13 floors high.

The plan states the following regarding the Freeway West Development Precinct, which is the one closest to the site: “In the long term, an opportunity exists to dismantle the freeway viaduct that currently connects North 3rd Street and North 4th Street from Second Ave. North to westbound Interstate 94. The presence of this aerial roadway ensures that traffic bypasses the neighborhood while creating a barrier that inhibits a neighborhood feeling. It is possible that a significant number of bus and [single occupant vehicle] trips along the existing viaduct will be replaced once the Northstar commuter rail is in full operation. In this event, the viaduct should be dismantled, the street grid re-established and through traffic returned to city streets thus enhancing the economic viability of the street-level environment in this part of Downtown. Similar to the portions of the Warehouse District in adjacent precincts, development in the Freeway West precinct should be mixed-use, medium intensity. The far western reaches of North 5th Street (west of where most traffic turns west towards Olsen Memorial Highway) should be redeveloped to incorporate a new residential neighborhood organized along a thin, linear park.” (p. 42)

- **Hennepin County’s “Downtown Minneapolis Multi-Modal Station Area Plan:”** Exhibit D contains excerpts from this plan pertaining to the site, which is located on the north-westernmost edge of an area called the “Viaduct Area.” Similar to the “Downtown East/North Loop Master Plan,” Hennepin County’s plan describes a long-term approach (2010 to 2020) to replace MnDOT’s viaduct above Fourth St. N. with the pairing of Third and Fourth Streets as one-way local streets with three and four lanes each, and new bridges over I-394 and the rail corridor. Only when this has happened does the plan call for infill development of residential and commercial uses in the Viaduct Area. Since the

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viaduct is relatively new and has a useful life of approximately 60 additional years, the City would be the likely source of funds to accomplish this.

The Planning Department's position is that the market will dictate the reuse of the subject site long before money is found to replace the viaduct as described in the plan. As such, the project is not inconsistent with this long-range plan for the Viaduct Area.

- **“Warehouse Riverfront District Development Framework:”**
The Cunningham Group prepared this plan for the MCDA and the Planning Department in 1998. The City Council did not adopt the plan. It provides suggestions for redevelopment within the Warehouse District and deals with the area to the east of 3rd Street. It does not include the subject site. The plan calls for reuse of the existing warehouse buildings and new infill construction for residential and commercial uses within the study area. It provides specific recommendations for sites with the greatest potential for redevelopment and infill, but none of these sites are close to Northern Auto. As such, this plan is consistent with other plans and policies that call for the redevelopment of the Warehouse District for residential and commercial, and, like these other plans, they do not include the subject site.
 - **Summary:** The appellants refer to four plans as a basis to deny the permit. Planning staff conclude that the City's Comprehensive Plan policies sometimes tilt in favor of the project and sometimes against, but that the project is not inconsistent with the Plan. In the case of the other three plans, none have been adopted by the City. Furthermore, they either lack policies directly applicable to the site, or recommend reuse for mixed-use residential and commercial only after the replacement of the I-94 viaduct that separates the site from the ongoing redevelopment that is a part of the Warehouse District renovation.
2. **Contention:** The appellants contend that a) the granting of the expansion or alteration of a nonconforming use or structure permit is tantamount to rezoning the site, and that b) it is inconsistent to use the same policies of the *Minneapolis Plan* to argue against the rezoning and in favor of the permit.

Response: The time factor is important as regards both of these matters. Since zoning can last for many decades, to rezone the site to I3 would be saying that this site should remain heavy industrial far into the future.

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With the rezoning would come the rights for all allowable uses in the I3 district, not just the nonconforming rights of the applicant. No one disagrees that the policies of the *Minneapolis Plan* argue against rezoning.

To narrow the analysis using the same policies but now focusing on a single use and project yields a different result. As for most complex projects, some policies tilt in favor of the subject project and some against. The appellants contend that the permit grants virtually the same rights as rezoning to I3. In fact, the permit will allow the intensification of the use by allowing car stripping and car crushing on the site, subject to the conditions of approval. But unlike a rezoning, the permit restricts the existing operations of Northern Auto significantly. The permit contains requirements that limit potential off-site impacts including aesthetic improvements (landscaping, screening, and site clean up), environmental improvements (site clean up, and spill protections), and limits on truck trips and operating hours. As stated above, staff concluded the project is “not inconsistent with the Comprehensive Plan.”

3. **Contention:** “Given the 378% increase in scrap handling, the increase in noise to 93 decibels (less than a subway train at 200 feet according to Staff!) and the operating hours during six days a week, such a heavy industrial, non-conforming use should not be permitted on this site.” (third page of letter from Mr. Kit Richardson)

Response: The 378% increase figure is in the staff report (p. 3) and refers to the increase in the number of cars to be processed (currently about 90 per month with a proposed increase up to 430 per month). The potential off-site impacts of processing these cars are primarily truck trips and noise, both of which are analyzed in the staff report. The report (p.8) states the following:

There will be “approximately 18 additional trips per week (refer to above table). However, since access is via 5th St. N., which is a truck route, the impact of this amount of additional traffic should be minimal when compared to existing levels of activity. Also, these are not all new trips. Most of the company’s proposed growth in business would be processing junkers from the Minneapolis Impound Lot. These cars must be moved off the Impound site so, if not moved to this site, they would be transported to another site for processing thus creating truck trips. . . .

“The proposed E-Z Crusher will produce 93 decibels of noise, according to the applicant. As Attachment 10 shows, this is less than a subway train at 200 ft. and comparable to the average Walkman personal radio on the fifth out of ten volume setting. Considering that sound decays at the

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square of distance, and that the crushers would be located towards the rear of the yard, the sound escaping from the crushers should not likely cause an adverse impact on people passing the site in the public right-of-way. Other sensitive receptors would include future 710 Lofts residents. However, the landscaping, freeway overpass, and the more than one block separation should mitigate any significant noise impacts on these future residents.”

Currently, the City does not restrict the number of cars Northern Auto processes, the number and timing of truck trips to and from the site, and the hours of operation. For many years the City has issued licenses to operate as they do today. As stated above, the permit allows intensification as regards the car stripping and crushing operations, but the permit restricts them in the following ways:

- Limits truck trips to and from the shop and yard to an average of 29 per month.
- Restricts operating hours to 8 to 4 Monday through Friday, and 8 to 1 on Saturday.
- Requires Northern Auto to clean up the site, preserve the existing trees, add trees and other landscaping, and replace the existing fences on the three open sides of the site with a new eight-foot-high opaque fence.

D. Summary of Options before the Council

Should the Council decide to approve the appeal and deny the permit, the Council should direct staff to develop findings per Section 531.50 of the Zoning Code to support such a decision. Should the Council wish to deny the appeal and allow the Planning Commission’s approval to stand, the Council might consider additional conditions to place on the project. These changes below stem from the new information staff have received since the Planning Commission decision:

1. Approval by the Planning Department of final plans.
2. The applicant shall clean up the site.
3. The applicant shall preserve the existing trees for screening purposes and encourage additional growth within the landscaped areas **shown on the landscape plan**.
4. The applicant shall replace the fence **on all open sides of the site** with another opaque fence of at least eight feet in height ~~on all sides of the site~~.
5. The applicant shall close three curb cuts.
6. Operating hours shall be 8:00 a.m. to 4:00 p.m., Monday through Friday and 8:00 a.m. to 1:00 p.m., Saturday.

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7. **Truck trips to and from the yard and the shop (but not including between the yard and the shop) shall not exceed 29 on average per month.**
8. **Violation of the City's noise ordinance may result in the revocation of this permit.**
9. **The applicant shall comply with City regulations regarding forklift operations on City streets.**
10. **The site plan shall comply with all applicable paving requirements and development standards in the Zoning Code.**
11. **The applicant shall comply with the recommendations from the Environmental Management Office.**

Exhibits:

- A. Exception to the decision of the City Planning Commission approving the application of Northern Auto Parts
- B. Planning Department report regarding BZZ-1107
- C. Final actions of the Planning Commission and excerpt from the minutes of the 6/2/03 hearing regarding BZZ-1107.
- D. Excerpts from the "Downtown Minneapolis Multi-Modal Station Area Master Plan" Prepared for the Hennepin County Transit and Community Works Department, February 2002
- E. Additional information from the applicant and others
- F. Recommendations from Environmental Management Office

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**Minneapolis City Planning Department Report
BZZ-1107: Northern Auto Parts, 814, 816, 824, 902, and 906 5th St. N.
Petition to Rezone from I2 to I3, Conditional Use Permit Application for a Scrap/Salvage
Yard, and Conditional Use Permit Application for an Accessory Parking Lot in the DP
Overlay District**

Hearing Date: 5/12/03 (continued from the 5/12/03 hearing)

Date Application Deemed Complete: 3/7/03

End of 60-Day Decision Period: Extended by letter to the applicant to 7/5/03

Applicant: Howard Chanen, 9905 Oak Ridge Trail, Minnetonka, MN 55305

Address of Property: Lot: 814, 816, 824, 902, and 906 5th St. N. Main building: 643 N.
5th St.

Contact Person and Phone: Howard Chanen, 9905 Oak Ridge Trail, Minnetonka, MN
55305 (voice: 612-339-9795, email: hchanen50@aol.com)

Staff Contact Person and Phone: J. Michael Orange, Principal Planner. Phone: 612-
673-2347; facsimile: 673-2728; TDD: 673-2157; e-mail:
michael.orange@ci.minneapolis.mn.us

Ward: 5, Council Member Johnson Lee **Neighborhood Organization:** North Loop
Neighborhood Assoc.

Existing Zoning: I2, Medium Industrial District

Proposed Zoning: I3, General Industrial District

Proposed Use: Intensification and alteration of the operations in the scrap yard to include
permanent car crushing and car stripping operations, and a parking lot for five vehicles.

Authority and summary of Planning Department recommendation:

- **Petition to rezone from I2 to I3 and the alternative—expansion or alteration of a nonconforming use or structure permit:** Chapter 525 describes the requirements for amending the Zoning Code. The use is a legal nonconforming use in the I2 District and needs a rezoning to I3 to be deemed a conforming use. Section 531.50 describes the requirements for an expansion or alteration of a nonconforming use or structure permit. **The staff conclude a rezoning to I3 is inconsistent with the Comprehensive Plan, and recommend the City deny the petition and, in lieu thereof, approve an expansion or alteration of a nonconforming use or structure permit (refer to Findings Sections A and B).**

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- **Conditional use permit for the use:** Scrap/salvage yards, metal milling facilities are conditional uses in I3 Districts per Table 550-1, and subject to Specific Development Standards. If the City agrees with the Planning staff recommendation to deny the rezoning, the use will remain a legal nonconforming use and cannot receive a conditional use permit. As such, the findings in Sections C. and D. are moot. If the City reverses the staff recommendation and rezones the property to I3, the use will need a conditional use permit and the findings apply in both Sections C and D. **In the event the City approves the rezoning petition, the Planning Department recommends the Planning Commission approves the conditional use permit. Should the City agree with the staff recommendation to deny the rezoning, Planning staff recommend the Planning Commission direct Zoning staff to return this application and fee to the applicant (refer to Findings Sections C and D).**
- **Conditional use permit for the parking lot:** Zoning staff directed the applicant to add a parking lot for five vehicles in the yard and to apply for the CUP for a surface parking lot in the Downtown Parking Overlay District. However, Table 541-1 in the Zoning Code allows the parking requirements to be set as a part of the conditional use permit for the scrap yard use, and 541.170 (1) requires documentation regarding the actual parking demand for the use. Planning staff evaluated the shop and yard sites and concluded that all employees report to the shop not the yard, and that the shop site contains ample room for parking for employees and visitors (15 stalls), and that there is no reason to create a parking lot in the storage yard. **Planning staff recommend the Planning Commission direct Zoning staff to return this application and fee to the applicant. Should the Planning Commission disagree, Planning staff will develop findings for this permit with a recommendation of denial.**

Concurrent Review: Public Works will require the approval of a stormwater management plan.

Prior approvals: None.

PART I: BACKGROUND

Current operations: Northern Auto Parts recycles automobiles in its facilities at 643 5th St. N. (hereinafter called the “shop”), and the scrap storage yard a block north (hereinafter called the “yard”). Attachment 5b includes additional information regarding the specifics of the operation. Essentially, the company buys junked cars and transports them by truck to the storage yard, the subject site. When ready, the cars are moved to the shop where they are stripped for saleable parts and non-metallic parts are removed. The remaining hulks are moved to the yard until they can be transported by truck to one of the area metal recycling facilities, and the business sells the used parts out of their shop. Attachment 9 includes pictures of the shop and yard and the surrounding area.

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According to the Zoning Code's definitions, both the shop and the yard are classified as "scrap/salvage yards, metal milling facilities" and not as "recycling facilities." Since this use is conditional first in the I3 District, and since this use has been at its current location since 1957, before the adoption of the prior Zoning Code when the sites were zoned M2-3, Limited Manufacturing District, the use is a legal nonconforming use.

Project description: The project has the following components:

- **Car crushers:** The applicant proposes to increase the amount of recycling by installing up to two mobile car crushers in the yard. The applicant has indicated that this will make the space more efficient and increase the value of the materials shipped off the site. The applicant stated the crushers would enable the company to process an additional 50-75 cars per day. The crushers will sit on two concrete pads in the yard. Attachment 5c includes pictures of the crushers at another site.
- **Drainage shed:** The project also includes the construction of a three-sided roofed shed within which workers will drain the fluids of cars prior to crushing.
- **Parking lot:** Zoning staff instructed the applicant to include a five-car parking lot in the yard.
- **Clean up:** Currently, the yard is littered with debris and the fence on 5th St. N. is in dire need of repair or replacement. The applicant intends to remove the debris as a part of the preparation for the new construction, and either replace or repair and paint the fence.
- **Hours of operation:** The I2 District does not restrict operating hours (except for hours that a business can be open to the public³). The operating hours for the yard will continue to be as follows:
 - Monday through Friday:
8:00 a.m. to 4:00 p.m.
 - Saturday: 8:00 a.m. to
1:00 p.m.

Truck trips:

	Monthly Operations				Average per Week		
		Shop	Yard		Total Trips to/from Both Facilities*		
	Cars	In	In	Out to Recycler	In	Out to Recycler	Total
Currently:							
Later model cars	30	30	30	3			
Junkers	60		8	5			
Totals	90	30	38	8	9	2	11
Proposed:							

³ Section 550.90.

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Later model cars	30	30	30	3			
Junkers	400		50	33			
Totals	430	30	80	36	20	9	29
Change	340						18
Percent Change	378%						157%
*Does not include trips from the shop to the yard							
Source: Northern Auto Parts							

Neighborhood review: The applicant presented the project to the neighborhood group. To date, planning staff have yet to receive any response from the group.

PART II: FINDINGS

A. Findings as Required By the Minneapolis Zoning Code for the Zoning Petition

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

- a. The *Minneapolis Plan* (adopted by the City in 2000):** The following policies are most relevant to the proposed rezoning:

Policy 2.1: Minneapolis will support the existing economic base by providing adequate land and infrastructure to make city sites attractive to businesses willing to invest in high job density and low impact, light industrial activity.

Implementation Steps (selected)

- Identify appropriate areas for the retention and expansion of existing industry and the development of new industry in specific industrial and business park opportunity areas.
- Promote light industrial uses as the preferred use of industrial land, but discourage warehouse or distribution uses in areas where truck traffic will negatively impact residential neighborhoods.
- Allow for a limited amount of heavy industrial uses where appropriate, but minimize negative impacts on their surroundings.
- Relocate conflicting heavy industrial uses from impacted areas as more appropriate sites in the city or the region become available.
- Encourage heavy industry to locate at appropriate sites, such as those that have with immediate freeway access, are distant from

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natural or cultural amenities, and with no significant residential
uses in the immediate vicinity.

**Policy 9.8: Minneapolis will establish industrial districts to provide
locations for industrial land uses, while ensuring that new industrial
development is compatible with its surroundings.**

Implementation Steps (selected)

- Allow for a limited amount of heavy industrial uses where appropriate, but minimize negative impacts on their surroundings.
- Relocate conflicting heavy industrial uses from impacted areas as more appropriate sites in the city or the region become available.
- Encourage heavy industry to located at appropriate sites, such as those that have with immediate freeway access, are distant from natural or cultural amenities, and with no significant residential uses in the immediate vicinity.

Policy 9.33: Minneapolis will support the existing economic base by providing adequate land and infrastructure to make city sites attractive to businesses willing to invest in high job density, low impact, light industrial activity.

Implementation Steps

- Identify appropriate areas for the retention and expansion of existing industry and the development of new industry in specific Industrial/Business Park Opportunity Areas.
- Promote light industrial uses as the preferred use of industrial land, but discourage warehouse or distribution uses in areas where truck traffic will negatively impact residential neighborhoods.
- Continue to protect a healthy physical environment that is attractive for private investment and compatible with neighborhoods.
- Allow for a limited amount of heavy industrial uses where appropriate, but minimize negative impacts on their surroundings.
- Relocate conflicting heavy industrial uses from impacted areas as more appropriate sites in the city or the region become available.

b. Consistency of petition with the *Minneapolis Plan*:

- The Plan encourages light industrial as the preferred intensity of commercial development for the City. The subject use is a heavy industrial use.
- The Plan calls for industrial expansion in specific industrial and business park opportunity areas. The Plan does not designate the area of the site as an Industrial/Business Park Opportunity Area.
- The Plan calls for a limited amount of heavy industrial uses and states the sites should have “immediate freeway access, [be] distant

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from natural or cultural amenities, and with no significant residential uses in the immediate vicinity.” The subject site does have close freeway access and it is distant from natural and cultural resources. However, residential uses are encroaching on the area from the east. The draft “Downtown East/North Loop Master Plan” also calls for additional residential growth in areas to the immediate south and east of the site over the long term. The Planning Department’s opinion is that southern portion of this industrial area is more appropriate for medium-to-high-density residential over the long term.

- Considering the above, the Planning Department concludes that the creation of another heavy industry zoning district is incompatible with the Comprehensive Plan.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

This petition request is solely for the benefit of the property owner. The staff alternative of granting an expansion of a nonconforming use permit allows the applicant to complete the project as proposed without the need for rezoning the site.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The site and area have been used for and zoned for a wide range of industrial uses for many years. There is a large area zoned I3 to the south of the site. Most of the industrial uses in the area are light-to-medium intensity. Rezoning the site for general industrial to make the business a conforming use will not likely create new long or short-range problems for the nearby uses because the subject use, which has been there for nearly half a century, is already considered one of the highest impact industrial uses allowed in the City.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

Although the current zoning on the site does not permit the current use, the I2 District does allow a wide range of other medium-intensity industrial and commercial uses. As stated above, the staff alternative of granting an expansion of a nonconforming use permit allows the applicant to complete the project as proposed without the need for rezoning the site.

- 5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.**

There has been no substantial change to the immediate area. However, the industrial area to the east on the other side of the 4th St. overpass is under construction for a major multi-family residential development, the 710 Lofts project that will span a three-block site. The new project is located about one block away but the access overpass for I-94 will effectively block the view of the yard for the first three or four floors of the new six-story development. This and the many other new residential and mixed-use developments on the north side portend a strong demand for redevelopment in this area. This trend is reflected in the draft "Downtown East -- North Loop Master Plan" (refer to section B. 5. of this report).

B. Findings as Required By the Minneapolis Zoning Code for the Expansion or Alteration of a Nonconforming Use or Structure Permit

The Planning Department recommends that the City not approve the petition for rezoning the site to I3. The Zoning Code provides an alternative means to allow this project to proceed through the issuance of an expansion or alteration of a nonconforming use or structure permit. Planning staff believe that the City should approve this permit in lieu of the rezoning petition. The following provides the necessary findings regarding this permit:

The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

- 1. A rezoning of the property would be inappropriate.**

The proposed rezoning is inconsistent with the *Minneapolis Plan* (refer to section A 1 of this report).

- 2. The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.**

The site and area have been used for and zoned for a wide range of industrial uses for many years. The site has been used as a scrap yard at

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least since 1957. This project involves the intensification and alteration of an existing legal nonconforming use. The project will result in minor increases in the expected impacts of the existing nonconforming use as described below:

- **Appearance and site clean-up:** The applicant intends on cleaning up the debris on the site which could have a positive effect on public health, and either repairing and painting or replacing the fence that surrounds the property. As stated above, the landscaping and the access overpass for I-94 will effectively block the view of the yard for the first three or four floors of the proposed six-story 710 Lofts project located a few blocks to the east.
- **Landscaping:** Approximately 5% of the site will be landscaped. The landscaping consists of medium-sized trees located on the south and east sides of the site perimeter. These trees are effective visual screens for views from the south and the east. An existing nine-foot-high solid metal fence surrounds the site on all but the north side. A 24-foot-high building on the north side of the site screens the site from the north.
- **Truck trips:** According to the applicant, the car crushing operations will increase truck trips in the area slightly, approximately 18 additional trips per week (refer to above table). However, since access is via 5th St. N., which is a truck route, the impact of this amount additional traffic should be minimal when compared to existing levels of activity. Also, these are not all new trips. Most of the company's proposed growth in business would be processing junkers from the Minneapolis Impound Lot. These cars must be moved off the Impound site so, if not moved to this site, they would be transported to another site for processing thus creating truck trips.
- **Noise:** The proposed E-Z Crusher will produce 93 decibels of noise, according to the applicant. As Attachment 10 shows, this is less than a subway train at 200 ft. and comparable to the average Walkman personal radio on the fifth out of ten volume setting. Considering that sound decays at the square of distance, and that the crushers would be located towards the rear of the yard, the sound escaping from the crushers should not likely cause an adverse impact on people passing the site in the public right-of-way. Other sensitive receptors would include future 710 Lofts residents. However, the landscaping, freeway overpass, and the more than one block separation should mitigate any significant noise impacts on these future residents.
- **Dust:** The applicant uses water as a dust suppressant as needed.

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3. **The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

Refer to the above response to Finding 2.

4. **The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

Refer to the response to Finding 2.

5. **In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

Not applicable.

6. **The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The site is not located in a floodway.

7. **The enlargement, expansion, relocation, structural alteration or intensification is consistent with the policies of the comprehensive plan.**

- a) **The *Minneapolis Plan* (adopted by the City in 2000):** Section A. 1. of this report lists the policies of the Minneapolis Plan most relevant to this project, and deals with the consistency of the proposed zoning petition with these policies. The following describes the project's consistency with these policies:

- The Plan encourages light industrial as the preferred intensity of commercial development for the City. The subject use is a heavy industrial use located in a medium-intensity industrial zoning district. The project involves a minor intensification of an existing heavy industrial use. As described below, the off-site impacts of this intensification are not expected to have a significant adverse impact on the surrounding area, and the associated site clean up will improve the site both aesthetically and environmentally.

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- Although the Plan calls for industrial expansion in specific industrial and business park opportunity areas, and the Plan does not designate the area of the site as an Industrial/Business Park Opportunity Area, the project is an intensification, not an expansion.
- The Plan calls for a limited amount of heavy industrial uses and states the sites should have “immediate freeway access, [be] distant from natural or cultural amenities, and with no significant residential uses in the immediate vicinity.” As stated above, the subject site does have close freeway access and it is distant from natural and cultural resources. Also, the site is reasonably screened from the residential uses that are encroaching on the area from the east.
- The Plan requires industrial uses mitigate their impacts on the surrounding area. As described elsewhere in this report, the off-site impacts from the proposed intensification (i.e. the noise, dust, vibration, and aesthetic impacts from the car stripping and crushing operations and increased truck trips) are not expected to be significant due to the location of the site in the midst of an industrial area and the on-site screening.
- Considering the above, the Planning Department concludes that the project’s minor intensification of the operations are not inconsistent with the Comprehensive Plan.

b. Other plans and policies:

The City uses several other plans and policies to guide decision making and evaluate proposals including the following:

(1) The “Minneapolis-Saint Paul Urban CO2 Reduction Plan” (approved by the City Council 12/17/93)

The plan encourages resource and energy conservation and recycling.

(2) City of Minneapolis Year 2000 City Goals (adopted by City Council and Mayor, March 26, 1999)

The following City goal is most relevant to this project: Preserve, enhance, and create a sustainable natural and historic environment citywide.

- c. **Project Consistency with other City plans and policies:** As a recycling facility, the use and the project result in the conservation of materials and energy.

C. Findings as Required By the Minneapolis Zoning Code for the Conditional Use Permit for the Use

If the City agree with the Planning staff recommendation to deny the rezoning, the use will remain a legal nonconforming use and cannot receive a conditional use permit. As such, the following findings in Sections C. and D. are moot. If the City reverses the staff recommendation and rezones the property to I3, the use will need a conditional use permit and the following findings apply in both Sections C and D. In the event the City approves the rezoning petition, the Planning Department recommends the Planning Commission approves the conditional use permit.

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.**

Refer to the above response to Finding 2 in Section B.

2. **Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The site and area has a very long history as an industrial area. The existing fences and landscaping completely enclose and screen the use. Refer also to the above response to Finding 2 in Section B.

3. **Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The staff of the Preliminary Plan Review Committee reviewed the project (4/30/03). There are six curb cuts currently. Public Works staff required that curb cuts #1, 2, and 4 (as measured from the south) be closed. The project includes adequate utility service and driveways consistent with all pertinent regulations.

4. **Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

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Traffic: As stated above, the use will increase truck trips in the area slightly. However, since access is via 5th St. N., which is a truck route, the impact of this amount additional traffic should be minimal when compared to existing levels of activity.

Parking: Table 541-1 in the Zoning Code allows the parking requirements to be set as a part of the conditional use permit for the scrap yard use and 541.170 (1) requires documentation regarding the actual parking demand for the use. Planning staff evaluated the shop and yard sites and concluded that all employees report to the shop not the yard, and that the shop site contains ample room for parking for employees and visitors (15 stalls).

5. Is consistent with the applicable policies of the comprehensive plan.

Refer to Section B. 7.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

D. Specific Development Standards as Required By the Minneapolis Zoning Code for Scrap/Salvage Yards, Metal Milling Facilities

If the City rezones the property to I3 as requested, the use will need to comply with the Specific Development Standards.

The Zoning Code at 536.20 establishes specific development standards for the category identified as “Scrap/salvage yard, metal milling facility.” The following addresses these standards.

- 1. Scrap/Salvage Yards, Metal Milling Facilities Established Or Expanded After The Effective Date of This Ordinance Shall Be Located At Least 300 Feet From Any Residence Or office Residence District:** The Project is not located within 300 feet of any residence or office residence district, or Industrial Living Overlay District (ILOD). The nearest ILOD district is located more than 400 feet away to the east and on the other side of the I-94 overpass that is located above 4th St. N.
- 2. Any New Scrap/Salvage Yard, Metal Milling Facility and Any Substantial Intensification of An Existing Facility Shall Require Approval of A Conditional Use Permit (CUP):** This application includes a CUP application for the Project in the event the City rezones the site to I3.

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**3. All Scrap/Salvage Yard, Metal Milling Facilities Shall Provide The Following
With Any Application For A Conditional Use Permit:**

- a. A Vicinity Plan That Includes The Following:
 - i. **A description of natural features, including streams, rivers, lakes, wetland and major topographical features located within 350 feet of the site:** The only natural feature in the vicinity is Bassett Creek. However, it is located in a pipe under the 800 block of 5th St. N. No other natural features are found within 350 feet of the site.
 - ii. **A description of the proposal and how it compares to land uses within 350 feet of the site:** Refer to the above responses to Sections A and B.
 - iii. **A description of any potential environmental hazard due to existing or proposed land uses, including soil, water and air contamination:** No environmental hazards are expected to result from the implementation of the project nor the operation of the car crushers.
- b. An Air Quality Plan Describing Stationary And Mobile Source Air Emissions, Their Quantities And Composition, And Indicating Conformance With All Applicable Air Quality Regulations: **According to information provided by the applicant, the E-Z Crusher employs diesel engine technology comparable to that used on trucks. It will be outfitted with pollution control and noise suppression devices comparable to a truck engine (refer to Attachment 5b).**
- c. A Dust Management Plan Describing Dust Emission Sources, Their Quantity And Composition, And How Dust Will Be Collected, Managed And Disposed of, And Indicating Conformance Will All Applicable Dust Emission Regulations: **The applicant uses water to suppress dust on the site. The E-Z Crusher is not expected to create significant amounts of dust during its operations.**
- d. A Sound Attenuation Plan Describing Sources of Sound and Indicating Conformance with All Applicable Sound and Noise Regulations: **Refer to the response to the Finding 2 in Section B.**

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- e. A Vibration Dampening Plan Describing Sources of Vibration And Indicating Conformance With All Applicable Vibration Regulations: **The E-Z Crusher unit is not expected to produce off-site vibrations of any significance.**
 - f. A Drainage Plan For Storm Water Management And Runoff: **The applicant will have to obtain the approval from Public Works for a stormwater management plan.**
 - g. A Landscape Plan Showing Compliance With The Requirements of Chapter 350, Recycling Activities And Salvage Yards, And Chapter 350, Site Plan Review: **Refer to the response to the Finding 2 in Section B.**
 - h. A Traffic Plan Describing The Number of Truck Trips The Proposal Will Generate And The Principal Access Routes To The Facility, Including A Description of The Facility's Traffic Impact On The Surrounding Area: **Refer to the response to the Finding 2 in Section B.**
- E. Findings as Required By the Minneapolis Zoning Code for the Conditional Use Permit Application for an Accessory Parking Lot in the DP Overlay District:**

Zoning staff directed the applicant to add a parking lot for five vehicles in the yard and to apply for the CUP for a surface parking lot in the Downtown Parking Overlay District. However, Table 541-1 in the Zoning Code allows the parking requirements to be set as a part of the conditional use permit for the scrap yard use, and 541.170 (1) requires documentation regarding the actual parking demand for the use. Planning staff evaluated the shop and yard sites and concluded that all employees report to the shop not the yard, and that the shop site contains ample room for parking for employees and visitors (15 stalls), and that there is no reason to create a parking lot in the storage yard. Planning staff recommend the Planning Commission direct Zoning staff to return this application and fee to the applicant. Should the Planning Commission disagree, Planning staff will develop findings for this permit with a recommendation of denial.

**PART III: RECOMMENDATIONS BY THE MINNEAPOLIS
PLANNING DEPARTMENT**

- A. Petition to Rezone from I2 to I3:** The City Planning Department recommends that the City Planning Commission **deny** the petition to rezone from I2 to I3 for Northern Auto Parts at 814, 816, 824, 902, and 906 5th St. N.
- B. Expansion or Alteration of a Nonconforming Use or Structure:** The City Planning Department recommends that the City Planning Commission **approve** the expansion or alteration of a nonconforming use or structure permit for

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Northern Auto Parts at 814, 816, 824, 902, and 906 5th St. N. subject to the following conditions:

12. Approval by the Planning Department of final plans.
 13. The applicant shall clean up the site.
 14. The applicant shall preserve the existing trees for screening purposes and encourage additional growth within the landscaped areas.
 15. The applicant shall repair and repaint the fence or replace it with another opaque fence of at least eight feet in height.
 16. The applicant shall close curb cuts #1, 2, and 4 (as measured from the south).
- C. **Conditional Use Permit:** The City Planning Department recommends that the City Planning Commission **direct the Zoning staff to return to the applicant the conditional use permit application and fee** for Northern Auto Parts at 814, 816, 824, 902, and 906 5th St. N.
- D. **Conditional Use Permit Application for an Accessory Parking Lot in the DP Overlay District:** The City Planning Department recommends that the City Planning Commission **direct the Zoning staff to return to the applicant this application and fee** for an Accessory Parking Lot in the DP Overlay District for Northern Auto Parts at 814, 816, 824, 902, and 906 5th St. N.

Attachments:

1. Zoning in the general area
2. Zoning and lot lines in the immediate area
3. Site plan
4. Floor plan and elevations
5. Information from the applicant:
 - a) Project description and response to the findings
 - b) Description of the EZ-Crusher
 - c) Photo of similar shed on another site
 - d) City license as a "Recycling Salvage Additional Yard"
6. Draft land use plan map, "Downtown East-North Loop Master Plan"
7. Aerial photo
8. Letter from neighborhood
9. Photos
10. Decibel comparisons
11. Zoning staff data sheet

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Excerpts from the “Downtown Minneapolis Multi-Modal Station Area Master Plan” Prepared for the Hennepin County Transit and Community Works Department, February 2002 (emphasis added)

[The Northern Auto site is located at the northwest edge of the Viaduct Area of the plan (refer to accompanying map).]

Viaduct Area

The focus for the Viaduct Area is twofold. One aspect that was identified is the long-term effect that the Mn/DOT-owned and federally financed freeway viaduct has in disconnecting the area south of Fourth Street North from the rest of the North Loop. The other aspect is the lack of green space.

To address the effect of the viaduct, a concept was developed to remove the Mn/DOT-owned freeway viaduct between Tenth and Second Avenues. In this concept, the function of the viaduct would be replaced by Third and Fourth Streets North, which would require changing the two streets into a one way pair and realigning the connection to I-94 west of Tenth Avenue North. Additionally, new bridges over I-394 and over the rail corridor would also be required on Third and Fourth Streets North to make this concept work. Development potential was identified along Fourth Street North and would be characterized by infill mixed use buildings.

Timing of the redevelopment/revitalization of this area would depend upon several elements related to the Mn/DOT-owned viaduct: • The useful life of the viaduct; currently estimated to be 60 years. • The cost to demolish the viaduct. • The cost and utility of using Third and Fourth Streets North as freeway connector streets. • The status of federal funds used to construct the viaduct and the need to repay them if it is demolished before the end of its useful life.

Costs to remove the viaduct could be substantial as it is relatively new and has not expended its useful life. The longest term approach would wait until the structure reaches the end of its useful life. Shorter term approaches would require proactive efforts and, most likely, funding on the part of the City of Minneapolis to demolish and replace the structure.

In terms of function, the Mn/DOT-owned viaduct provides a high capacity ramp for vehicles entering and leaving downtown. For eastbound traffic, the signal at Second Avenue North is a bottleneck that causes queuing on the viaduct, particularly during the morning peak period. For westbound traffic, the ramp meters at the entrance to I-94 (west of Tenth Avenue North) cause traffic to queue on the viaduct, particularly in the evening peak period.

Fourth Street North east of Second Avenue North is able to carry all of the traffic from the viaduct and from the other two approaches at that intersection. To do so requires that

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the street be a one-way and be three to four lanes wide in cross section. Similarly, westbound traffic upstream of the viaduct on-ramp on Third Street North is also adequately carried on a one-lane street with a similar three to four lane cross section. These conditions suggest that the likelihood exists that the volume of traffic using the viaduct could be carried by surface streets, provided that those streets were three to four lanes in width. The type of intersection traffic control, parking conditions, and driveways would all affect the level of congestion and need to be analyzed in detail if this concept moves forward. There are additional traffic demands on Third and Fourth Streets North in the North Loop and on the viaduct (the parking garage at Fourth Street North adds traffic directly to the viaduct) that will need to be considered in any redesign. Similarly, transit also uses the viaduct and any redesign will need to consider providing adequate space for buses. While the surface street concept may provide sufficient capacity to carry the viaduct traffic, the use of surface streets will introduce delay at traffic signals, which will make the surface street option less efficient than the viaduct for moving traffic.

Recent experience in San Francisco and Milwaukee indicates that property values adjacent to similar viaducts in districts adjacent to the central business districts of those cities have tripled once their viaducts were removed. The circumstances surrounding viaduct removal in both of these cities are unique and are not meant to infer that similar circumstances exist locally. This concept, while expensive and potentially very long term, has merit when viewed in the context of larger city building, since the existing viaduct has contributed to (but by no means solely caused) the current state of low investment in this area of the North Loop. The City of Minneapolis will need to decide if the redevelopment opportunity provides sufficient benefit to the city to warrant pursuing this concept.

The need for green space was addressed by daylighting Bassett Creek into a series of small parks that would provide a network of green places in this part of the study area. The parcels chosen for daylighting are surface parking lots. Replacement of the lost parking would be accomplished in shared parking structures that would also function as a district parking utility. Building types and heights would reflect the historic character of the district and transfer of development rights (TDR) could be used adjacent to the park areas to create heights in the range of 10-12 stories. Pedestrian and bicycle connections could be used to link spaces along the daylighted creek.

Daylighting of Bassett Creek has been studied at various times in the past. The creek is currently channelized in a large pipe roughly 12 to 20 feet below the surface. The flow in the channel is largely storm water and is subject to interruption. Work being done in the Near Northside project may add some natural flow to the channel, but any use of the creek as a park feature will need to consider the intermittent nature of the water flow and the low water quality. Architecturally, the types of spaces that could be created by daylighting the creek would be terraced descents that would create sheltered space in the urban environment. The process of excavating the parks to reach creek height may

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provide the opportunity to highlight historic or archaeological ruins from the district's industrial past.

Viaduct Area Concept

Viaduct Area/Mixed-Use Concept

District Specific Guidelines

The redeveloping North Loop area is characterized by a building pattern of (typically) four to eight story brick buildings that define a strong and continuous street edge. Recent developments in the North Loop largely mimic this development pattern.

Connections

- **If the viaduct is dismantled** Third and Fourth Streets North should be designed to handle the required traffic volumes, while providing pedestrian accommodation. One should not be at the expense of the other. Sidewalks should be sufficiently wide and have attractive street furniture with pedestrian scale lighting. Provisions should be made to manage traffic speed if street-level retail uses are to be permitted along Third and Fourth Streets North. Similarly, land uses along the two streets should recognize the higher traffic intensity on these streets.
- Opportunities to connect this district with the riverfront should be pursued. Continuous street connections to the riverfront are very limited in this district. None of the avenues have a continuous connection to the riverfront. In the absence of that, connections towards the river should be facilitated through land use (active uses on the ground floor of buildings), landscaping, lighting and other streetscape elements (such as special paving treatments). Activity
- **High density mixed use development is appropriate along Third and Fourth Streets North if the viaduct is dismantled. Commercial uses will enjoy desirable vehicular access and visibility. Residential uses along the daylighted creek areas will enjoy proximity to the riverfront, entertainment district and the Downtown Core.** • New residential (re)developments should provide private open spaces, such as balconies. This encourages greater interaction and natural surveillance of the public realm from people who have a sense of ownership over the neighborhood. Sustainability • There are a few locations along the original Bassett Creek where the old creek can be partially daylighted in a small urban park. Daylighting the creek provides an ecological function by aerating the water. Terraced ecological zones around restored water features can be created. In addition to providing an environmental service, these urban parks also provide much needed open space in this growing residential neighborhood. (pp. 32-36)

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Matrix of Responsible Parties—Viaduct Area

Action	Responsibility	Time
Demolish viaduct	MnDOT	2010-2020
Reconfigure Third/Fourth Streets	City, MnDOT	2010-2020
<u>Introduce new intense development along Third/Fourth Streets.</u>	Private developers, City	2015-2020
Improve streetscape in district	City	2003-2005
Retrofit (balconies) historic buildings	Property owners, HPC	2005-2020
Daylight portions of Bassett Creek, new urban parks	Property owners, HPC	2005-2020

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Email from Roger Van Tassel to Michael Orange (4:44 p.m. 6/19/03):

Michael

These are the conditions, which we would like to see attached to this before it is allowed.

- (1) Enclosed structure for both processes, crushing and dismantling, (four sided structure with a roof)
- (2) Sound abatement measures to assure the noise from crushing and air impact wrenches are not audible beyond their property line.
- I. Environmental Management must review and Ok before building**
- (3) All doors and windows must be closed during crushing and during any dismantling of any vehicles. Proper ventilation of the buildings must be installed to assure the doors and windows are kept closed. (Reason; employees will keep the doors open if it was too hot so air conditioning and sufficient heating would be required)
- (4) A sand and grit drain must be installed.
- (5) An oil water separator must be installed in each building.
- (6) Secondary containment must be installed.
- (7) Any oil spills must be cleaned up immediately
- (8) Work times will be dictated by construction activity ordinance.
- (9) Absolutely no auto work outside.
- (10) All fluids must be drained before crushing and recycled properly.
- (11) All mercury must be removed and any other hazardous material before crushing.
- (12) Only legal vehicles can be crushed
- (13) A site storm water run off plan must be established and adequately implemented.
- (14) Material transfer must be contained to prevent spills and tracking.
- (15) Particulate matter must be contained and not allowed to leave their site.
- (16) No idling of vehicles for more than five minutes.
- (17) Opacity must remain below 20%.
- (18) Odors must remain on their properties.
- (19) Footings and vibration absorbent devices (By City Code, Manufactories recommendation) must be installed beneath the crusher.
- (20) Permacoat/sealcoat must be installed on all surfaces inside the structures
- (21) No outside storage of any parts or fluids.
- (22) Crushed cars must be loaded on leak proof trucks. At no time will the loading and unloading of vehicles be allowed on the Cities Street. Therefore, there must be adequate room for vehicles to be loaded and unloaded on their property. This area must have spill protection
- (23) Paving of all loading, storage, and operational areas.

These issues must be reviewed and agreed on by City staff.

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